**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-26377-2024 (O&M)
Date of decision : 14.10.2024

JAI BHAGWAN AND ANOTHER

…Petitioners

Versus

FINANCIAL COMMISSIONER, HARYANA AND OTHERS

…Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Sandeep K. Sharma Advocate
for the petitioners.

HARSH BUNGER, J. [ORAL]

Petitioners have filed the present writ petition under Articles 226/227 of the Constitution of India, seeking setting aside of order dated 19.04.2023 (Annexure P-11) passed by the learned Financial Commissioner, Haryana.

2. Briefly, the pleaded case of the petitioners is that S/Sh. Kanshi Ram and Sadhu Ram sons of Jugal Kishore, were the owners in possession of land in question, as detailed in para No.2 of the writ petition, situate at Village Rohtak, Tehsil and District Rohtak. It is stated that there were two un-registered sale deeds bearing Vasika Nos.420 and 421 dated 30.04.1958, executed in favour of Sh. Prahlad Rai son of Ram Saran (father of respondent No.6, herein-Sita Ram). It is next stated that the Circle Patwari entered mutation Nos.20987 and 20988, in favour of said Prahlad Rai, on the basis of the un-registered sale deeds, as mentioned above. Thereafter,

learned Assistant Collector 2nd Grade, Rohtak sanctioned the afore-said mutation Nos.20987 and 20988, vide its order dated 12.03.2018 (Annexures P-1 and P-2, respectively). It is further stated that mutation No.21041 was entered on 06.03.2018 with regards to succession of Sh. Prahlad Rai (expired on 31.12.1994) in favour of respondent No.6-Sita Ram and Purni Devi widow of Prahlad Rai. Simultaneously, another mutation No.21042 was entered on 06.03.2018 in favour of respondent No.6-Sita Ram, regarding inheritance of Smt. Purni Devi (expired on 05.12.2016). Both the afore-said mutation Nos.21041 and 21042, were sanctioned on 12.03.2018 (Annexures P-3 and P-4, respectively).

2.1 It transpires that thereafter, respondent No.6-Sita Ram executed a Sale Deed dated 28.03.2018 in favour of present petitioners for an amount of Rs.1,06,20,000/- and Mutation No.21219 was sanctioned.

2.2 The afore-said mutations were challenged by respondent No.4-Surinder Kumar before the learned Collector; who vide order dated 04.02.2020 (Annexure P-7), set aside all the mutations bearing Nos.20987, 20988, 21041, 21042 and 21219. It is noticeable that simultaneously, respondent No.4-Surinder Kumar also filed a Civil Suit for declaration, challenging the afore-said mutations.

2.3 Feeling aggrieved against the afore-said order dated 04.02.2020 (Annexure P-7), the present petitioners along with respondent No.6-Sita Ram filed an appeal before the learned Commissioner, Rohtak Division, Rohtak, which came to be allowed vide order dated 26.10.2020 (Annexure P-9), whereby the Collector's order dated 04.02.2020 (Annexure P-7) was set aside.

2.4 Thereafter, respondents No.4 and 5, herein challenged the order dated 26.10.2020 (Annexure P-9) passed by the learned Commissioner, Rohtak, by preferring a Revision Petition (***ROR No.26 of 2020-21***), which came to be allowed vide order dated 19.04.2023 (Annexure P-11), whereby the Commissioner's order dated 26.10.2020 (Annexure P-9) was set aside.

2.5 In the afore-mentioned circumstances, petitioners have filed the present writ petition before this Court for the relief/s, as noticed here-in-above.

3. Heard.

4. The only argument raised by learned counsel for the petitioner is that the order passed by the learned Financial Commissioner, is without jurisdiction, inasmuch as that the Government of Haryana has amended the provisions of the Land Revenue Act by an Amendment Act of 2017, whereby the powers of learned Financial Commissioner under Section 16 of the Land Revenue Act, have been withdrawn.

5. I have considered the afore-said contention raised on behalf of the petitioner. Although, Section 16 of the Land Revenue Act, stands amended by way of 2017 amendment, however, it is noticeable that a Division Bench of this Court in the case of ***Jagjit Singh vs Divisional Commissioner, Patiala, 2012(13) RCR(Civil) 96***, has held that the mutation proceedings are summary in nature and in exercise of administrative functions, therefore, such proceedings do not create or extinguish any right or tile in the land and the right or title in the property is to be decided by the Civil Court. It was further observed that a Revenue Officer discharges administrative functions when he updates the revenue record by sanction of the mutation and as such, he is only a book-keeper or a chronicler of events taking place from day-to-day and the revenue officer is supposed to make only a summary enquiry for the purpose of satisfying

himself as to the entry he would make in the revenue record. It was also held that the mutation proceedings cannot be kept in abeyance during the pendency of the dispute before the Civil Court and the Revenue Officers are duty bound in terms of the statute to enter mutations in exercise of their administrative functions.

5.1 Here, it would be apposite to refer to Section 11of the Haryana Land Revenue Act, 1887, which reads as under :-

> ***"11. [Superintendence and control of Revenue-officers.]*** *-*
> *(1) The Financial Commissioner shall be subject to the control of the[State Government].*
> *(2) The general superintendence and control over all other Revenue-officers shall be vested in, and all such officers shall be subordinate to the Financial Commissioner.*
> *(3) Subject to the general superintendence and control of the Financial Commissioner, a Commissioner shall control all other Revenue-officers in his division.*
> *(4) Subject as aforesaid and to the control of the Commissioner, a Collector shall control all other Revenue-officers in his district."*

6. Even though the powers of the learned Financial Commissioner have been taken away by way of Amendment Act, 2017, however, keeping in view the above-referred judicial pronouncement by the Division Bench of this Court, holding that the Revenue Officer only discharges the administrative functions while up-dating the revenue record by sanctioning of mutations and in terms of above extracted Section 11 of the Haryana Land Revenue Act, 1887; the Financial Commissioner exercising superintendence and control over all other revenue officers, therefore, it cannot be *stricto senso* held that the order passed by the learned Financial Commissioner, is without jurisdiction.

7. That apart, a perusal of impugned order dated 19.04.2023 (Annexure P-11) passed by the learned Financial Commissioner, would indicate that there are disputed questions of fact involved in the present case, inasmuch as that Kashi Ram and Sadhu Ram, who were the original owners of the land in dispute, had created a charitable trust known as `Lala Jugal Kishore Charitable Trust' vide registered Trust Deed dated 18.06.1955 and a part of the land was given to the charitable trust, who is in possession of the property and the remaining property is in possession of the legal heirs of the original owners, including respondent No.4 herein, Surinder Kumar. There is also a dispute as regards the date of death of Sh. Kashi Ram. Further, the mutation Nos.20987 and 20988 are apparently entered and sanctioned on the basis of un-registered sale deeds. It has also come on record that Sita Ram was not the only son of Prahlad Rai as Prahlad Rai had two more sons namely, Mukesh Kumar and Dalip Kumar; therefore, sanctioning of mutation on the basis of succession of Prahlad Rai, only in favour of Sita Ram, is also debatable.

8. Furthermore, the mutation Nos.20987 and 20988 have been entered on the basis of un-registered Sale Deeds dated 30.04.1958 i.e. after more than 60 years. Apparently, if Prahlad Rai, had acquired titled on the basis of the un-registered sale deeds, then why he did not make any effort to claim possession or to seek mutation of the land allegedly purchased by him during his life time and he expired on 31.12.1994.

9. In ***Ranjit Singh versus Financial Commissioner, Revenue, Punjab and others, 1981 PLJ 5***, it has been held by this Court that the Revenue Authorities are not under no statutory obligation to sanction mutation.

10. Considering the afore-mentioned facts and circumstances, especially the disputed questions of fact involved, mutation Nos.20987, 20988, 21041, 21042 and 21219, cannot be sustained. The parties are already litigating before the Civil Court and they would be well within their rights to agitate their respective claims and the final decision rendered by the Civil Court, would, in any case, be binding on the parties.

11. Accordingly, finding no merit in the present petition, the same is, hereby, dismissed.

12. All pending application/s, if any, shall also stand closed.

October 14, 2024 **(HARSH BUNGER)**
gurpreet **JUDGE**

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No